IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.23714-M of 2006

DATE OF DECISION: SEPTEMBER 11, 2006

Ramphal

.....PETITIONER

VERSUS

Smt.Kamlesh

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr.R.N.Lohan, Advocate,
for the petitioner.
None for the respondent.

..

The petitioner (husband) has filed this petition under Section 482 Cr.P.C for quashing the order dated 19.3.2004 passed by the Addl.Chief Judicial Magistrate, Bhiwani, whereby on an application under Section 125 Cr.P.C filed by the respondent-wife, an amount of Rs,700/- per month has been awarded as maintenance allowance; and the order dated 26.9.2005 passed by the Addl.Sessions Judge, Bhiwani, whereby the revision preferred by the petitioner against the aforesaid order has also been dismissed.

2. I have heard the counsel for the petitioner as no one appeared on behalf of the respondent.

3. In this case, the respondent-wife filed an application under Section 125 Cr.P.C claiming interim maintenance. She alleged that the petitioner had obtained a decree of divorce by playing a fraud upon her. It was further alleged that she was turned out from the matrimonial home and now she is unable to maintain herself and she has no source of income. On the other hand, the petitioner is serving in Border Security Force and he is earning salary of Rs.8000/- per month. The said application was opposed by the petitioner by contending that the respondent wife is having sufficient income to maintain herself. It is pertinent to mention here that it was admitted by both the parties before the trial Court that divorce obtained by

the petitioner has been set aside.

4. The trial Court after appreciating the evidence available on the record, awarded an amount of Rs.700/- per month as interim maintenance to the respondent-wife. The revision preferred against the said order has also been dismissed by the Addl.Sessions Judge, Bhiwani. Hence this petition.

5. Counsel for the petitioner at the very outset contends that now the petitioner is ready to keep the respondent-wife, therefore, the impugned orders be set aside.

6. After hearing the counsel for the petitioner, I do not find any illegality in the impugned orders passed by both the Courts below. In this case, till date not a single penny has been paid by the petitioner to the respondent-wife towards interim maintenance. Before the trial Court, the petitioner was not ready to keep the respondent-wife and she was turned out from the matrimonial home without any rhyme or reason. She is also unable to maintain herself as she is having no source of income. The offer made by the petitioner now at this stage does not appear to be genuine. Thus, keeping in view the facts and circumstances of the case, in my opinion, the amount of Rs.700/- per month cannot be said to be unreasonable as the cost of living in these days has increased manifold. Thus, finding no merit in the petition, the same is hereby dismissed.

September 11, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE